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March 13, 2017

Nicole M. Snyder, Esq.
Shafer Glazer LLP
125 Maiden Lane, 16th floor
New York, New York 10038

Re: Alicia A. McCalla
Index #16-CV-02470
Date of Injury: 08/04/2014

Dear Ms. Snyder:

I had the opportunity to perform an independent medical examination on Ms. McCalla with regard to the spine on March 13, 2017 at approximately 10:15 AM. Ms. McCalla arrived more than an hour late for her appointment. Ms. McCalla's identification was confirmed using her NYS driver's license. Ms. Toika Rivers a representative of Ms. McCalla's law firm was present throughout. A female medical assistant was present for the examination.

The history as obtained from Ms. McCalla is that she is a 44-year-old right hand dominant woman who was the driver of a van. She was stopped and hit in the back of her vehicle on August 4, 2014. She was wearing a seatbelt. There was no loss of consciousness. There was no air bag deployment. She was six months pregnant at the time. She was taken by ambulance to Jamaica Hospital where she claims she remained for 24 hours and was discharged. Approximately a week later she sought medical attention. She does not recall whom she saw at that time. She remembers treating with two doctors, Dr. Reyfman and Dr. Lerman, one was the pain management doctor and one was the surgeon. She claims she had pain after the accident in her neck that radiated to the left shoulder with associated left upper extremity discomfort that she rates as a 10 on a scale of 0 to 10. She underwent neck surgery on March 31, 2015. She claims that surgery was not of much help to her. She received physical therapy briefly after the surgery, and now continues to see her pain management doctor, Dr. Reyfman on a monthly basis. He gives her medications but she does not know what those medications are. She has complaints of pain in her lower back in the midline. The pain does not significantly radiate. She rates the back pain as an 8 to 9 on a scale of 0 to 10. She denies problems with her spine prior to this event. Her pains are aggravated with walking or sitting, it feels better if she lies down. She does not know how long she can sit for comfortably, she thinks she can stand comfortably for about 30

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minutes and walk two blocks. She recalls receiving physical therapy and epidural injections in her neck and her lower back prior to the surgery.

She completed her pregnancy uneventfully. She takes medications on a daily basis, but does not know the names or how frequently she takes them. She denies allergies to medications. She does not smoke, she does not consume alcohol. She is able to perform her activities of daily living. She is able to drive. She is working full time as a home health attendant.

Ms. McCalla was instructed before the examination and during the examination to report any pain and to avoid performing any maneuvers that she felt could worsen her symptoms or condition. She indicated that she understood this. Opportunities for breaks during the examination were offered. The examination was completed without complaints or signs of injury.

On examination now she is a pleasant, cooperative woman in no apparent distress. She independently changed into a gown for the examination. She is able to move about the exam room without difficulty and get up and down from the exam table unassisted. She is 5'3" tall and weighs 225 pounds. BMI=39.9 obese. She has a normal gait. She would not attempt to demonstrate toe walking. She attempted to demonstrate heel walking but claimed she was unable to, and was able to perform tandem gait. There is no evidence of para spinal muscle spasm. She complains of pain throughout the back and neck in response to light palpation. On active range of motion testing of the lumbar spine she demonstrated 30 degrees of lumbar flexion, 0 degrees of extension, and claims she was unable to demonstrate side bending or rotation as it aggravated her neck pain. On active range of motion testing of the cervical spine she would not demonstrate flexion, she would not demonstrate extension. She demonstrated 5 degrees of right and left lateral bending and 5 degrees of right and left rotation. Motion is restricted by subjective complaints of pain. A goniometer is used to assist in measurement.

Normal range of motion lumbar spine:

Flexion 75-90 degrees
Extension 25-30 degrees
Lateral right bending 30 degrees
Lateral left bending 30 degrees
Rotation to the right 30 degrees

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Rotation to the left 30 degrees

Normal range of motion of the cervical spine:

Flexion 45-60 degrees

Extension 45-60 degrees

Lateral bending to the right 40-45 degrees

Lateral bending to the left 40-45 degrees

Lateral rotation to the right 70-90 degrees

Lateral rotation to the left 70-90 degrees

Motor examination of the upper extremities reveals her motor strength to be 4/5 in all the muscle groups of both upper extremities. There was not much effort on testing and she gave way repeatedly. Motor examination of the lower extremities is 5/5. There is no evidence of clonus, Hoffmann's, or Babinski signs. Straight leg raising is negative bilaterally. Deep tendon reflexes are 1 plus in the upper extremities, 1 plus in the lower extremities. She had decreased sensation in a global distribution below the knee on the right side, and she claims that sensation to light touch of her left upper extremity was "rough", and in her right upper extremity was "soft". She has a well healed 5 cm transverse incision in the base of the neck on the right side. The incision is slightly hypertrophic. There is no atrophy of the extremities noted.

I reviewed the following records:

1. Medical records Metropolitan Medical & Surgical PC
2. Medical records Stand-Up MRI of Lynbrook;
 - a. Report MRI of the cervical spine 11/26/2014. The report indicates a posterior disc herniation in midline with a right para median focal extrusion at C4-C5.
 - b. Report MRI of the lumbar spine 11/30/2014. There is a broad based posterior disc herniation impressing on the thecal sac and L5 roots. At the superior margin of the L4-L5 facet there is a 1.2 x .9 x 0.7 cm synovial cyst extending into the right posterior para spinal soft tissues not causing neural compromise. There were disc bulges at L1-L2, L2-L3 and L3-L4 with reactive changes in the end plates at T10-T11.
3. Medical records Leon Reyfman.
4. Medical records John Shiau.

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5. Medical records Community Medical Imaging, report x-rays of the cervical spine 04/01/2015. Reversal of the curvature of the spine consistent with muscle spasm.
6. Medical records Nassau University Medical Center including operative report 03/31/2016, surgeon Dr. Vadim Lerman, assistant Dr. Karen Avanesov. Preoperative diagnosis intractable neck pain, C4-C5 disc herniation with cervical radiculopathy left upper extremity. The post operative diagnosis was the same. The operation was an anterior cervical discectomy C5-C6, intravertebral implant C5-C6, arthrodesis C5-C6, anterior instrumentation C5-C6, allograft and autograft, application of cranial tongs. The findings were C4-C5 disc herniation with annular tear and soft herniated disc fragments causing canal stenosis with resulting in C5 nerve root compression. The operative report describes a standard anterior cervical discectomy and fusion at the C4-C5 level.
7. Medical records Dr. Vadim Lerman, DO.
8. Plaintiff's interrogatories to defendant.
9. Medical records Mark Gladstein, M.D.
10. Medical records Eldar Kadymoff, medical PC
11. Records Country Wide Insurance Company.
12. Police accident report 08/04/2014. Vehicle 1 (Ms. McCalla) claims she was sideswiped while traveling west bound on North Conduit Avenue.
13. Medical records Jamaica Hospital Emergency Facility, date of service 08/04/2014. It notes that Ms. McCalla was wearing a lap shoulder belt. She had no complaints of back pain at the time. She was complaining of neck pain and was 25 weeks pregnant. She was neurologically intact.
14. Medical records Life Style Rehab Physical Therapy.
15. Medical records Harvey Fishman, M.D; independent medical examination 11/20/2014. Dr. Fishman found normal motion of the cervical spine, normal motion of the lumbar spine and Ms. McCalla to be neurologically intact. He found that there was no residual disability either from her occupation or activities of daily living.
16. Medical records Dr. Robert A. Richman, chiropractor; independent medical examination 11/20/2014. He essentially found subjective complaints without spinal related objective findings with no objective indication as to why she is incapable of work or performing routine activities of daily living.

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17. Medical records Wave Diagnostic Medical PC, EMG 12/18/2014 of the upper extremities. There was no evidence of cervical radiculopathy. There was evidence of carpal tunnel syndrome unrelated to the claimant's cervical spine.

I reviewed the following imaging studies:

1. MRI of the cervical spine, 11/26/14. Stand-Up MRI of Lynbrook. The study demonstrates mild chronic degenerative changes. There is a small central right sided disc herniation at C4-C5. It abuts the spinal cord but does not cause any spinal cord or nerve root compression. There is no left sided pathology consistent with Ms. McCalla's complaints. The disc herniation is more likely than not an incidental finding. It is unrelated to the event on 8/4/2014.
2. MRI of the lumbar spine, 11/26/14. Stand-Up MRI of Lynbrook. There are minimal pre-existing degenerative changes with bulging of the disc at L4-L5. No significant nerve root or thecal sac compression. No evidence of acute injury.

In summary, Ms. McCalla was involved in a motor vehicle accident on August 4, 2014 where she was side swiped. Imaging studies done shortly thereafter revealed a small right sided disc herniation at C4-C5. Ms. McCalla had left sided cervical complaints. Those complaints are not consistent with the MRI demonstrating a small right-sided disc herniation. The disc herniation noted is more likely than not an incidental finding unrelated to the motor vehicle accident. Asymptomatic disc herniations on MRI's are quite common.

The lumbar spine MRI demonstrated minimal chronic pre-existing degenerative changes without evidence of acute injury.

The spine surgery performed, (which was presumably performed at the C4-C5 level even though the operative headings says C5-C6), was not causally related to the motor vehicle accident. The findings of a minimal central right-sided disc herniation with no nerve root or cord compression in the presence of left sided complaints, indicates the disc herniation is an incidental finding. The surgery was not causally related to the motor vehicle accident.

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Currently Ms. McCalla has subjective findings on examination out of proportion to and inconsistent with the objective information available. There is no objective explanation for the marked diminution of motion that she demonstrates on examination. She has evidence of symptom amplification. She has complaints of functional disability out of proportion to the objective information available. A single level anterior cervical discectomy and fusion is a procedure with a reproducible patient satisfaction rate in excess of 90 - 95%. Patients typically return to unrestricted activity within one to three months, six months at the outside.

There is no causally related objective evidence of disability with regard to the spine. There is no causally related indication for the surgery that was performed. There is no causally related indication for further treatment at this time. There is no contra indication to Ms. McCalla participating in activities without restriction.

I, Paul Kuflik MD., being a Diplomate of the American Board of Orthopedic Surgeons, am duly licensed to practice medicine in the State of New York pursuant to CPLR, section 210.6 and hereby affirm under the penalties of perjury the foregoing is true to the best of my knowledge except as to those matters stated on information and belief, and as to those matters I believe to be true.

The above claimant was examined according to the restrictive rules concerning an independent medical examination. It is therefore understood no doctor patient relationship exists or is implied by this examination.

The claimant is examined in reference to that specific complaint emanating from the original injury. Any other medical conditions which were either unreported or felt to be unrelated to the original injury are considered to be beyond the purview of this examination.

Sincerely yours,

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